

1 BILL NO. S-82-12-18

2 SPECIAL ORDINANCE NO. S- 247-82

3 AN ORDINANCE approving Water Contract  
4 82-03, Cedarville Reservoir, with  
5 T & G Excavating, Inc., in connection  
6 with the Board of Public Works.

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
8 FORT WAYNE, INDIANA:

9 SECTION 1. That Water Contract 82-03, Cedarville  
10 Reservoir, dated October 13, 1982, between the City of Fort Wayne,  
11 by and through its Mayor and the Board of Public Works and  
12 T & G Excavating, Inc., for:

13 the installation of seventy (70) feet of  
14 compacted backfill and stone rip-rap on  
15 the left (east) side of the Cedarville Dam  
16 and forty (40) feet of stone rip-rap on  
17 the right (west) side of the Cedarville  
18 Dam, as defined in Federal Emergency Manage-  
19 ment Agency Damage Survey Reports Nos.  
20 041888 and 044892;

21 involving a total cost of Six Thousand Five Hundred Seven and  
22 No/100 Dollars (\$6,507.00), all as more particularly set forth  
23 in said contract which is on file with the Office of the Board  
24 of Public Works and is by reference incorporated herein, made a  
25 part hereof, and is hereby in all things ratified, confirmed  
26 and approved. Two copies of said contract are on file with  
27 the Office of the City Clerk and made available for public inspec-  
28 tion, according to law.

29 SECTION 2. That this Ordinance shall be in full force  
30 and effect from and after its passage and any and all necessary  
31 approval by the Mayor.

32   
Councilmember

APPROVED AS TO FORM  
AND LEGALITY

  
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Burns, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Hall (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 12-14-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Burns, seconded by Stier, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: 12-28-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL)

(APPROPRIATION) ORDINANCE

(~~RESOLUTION~~) NO. 2-247-82

on the 28th day of December, 1982.

ATTEST:

(SEAL)

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of December, 1982, at the hour of 11:30 o'clock P.M., E.S.T.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 3rd day of January, 1983, at the hour of 12:30 o'clock P.M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR. - MAYOR

BILL NO. S-82-12-18

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN  
ORDINANCE approving Water Contract 82-03, Cedarville Reservoir, with  
T & G Excavating, Inc., in connection with the Board of Public  
Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS - CHAIRMAN

MARK E. GIAQUINTA - VICE CHAIRMAN

JAMES S. STIER

JANET G. BRADBURY

ROY J. SCHOMBURG

1278-82

DATE

CONCURRED IN  
CHARLES W. WESTERMAN, CITY CLERK

BOARD ORDER NO. 133-82WORK ORDER NO. 63594

THIS CONTRACT, made and entered into in triplicate this 13 day of October, 19 82, by and between T - G EXCAVATING, INC., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works, herein called OWNER,

WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of Seventy (70) feet of compacted backfill and stone rip-rap on the left (East) side of the Cedarville Dam and forty (40) feet of stone rip-rap on the right (West) side of the Cedarville Dam,

all according to Fort Wayne Water Utility Drawing No. Y-10564, pages 1 thru 4, and do everything required by this Contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The OWNER shall pay CONTRACTOR for the performance of the Contract the sum of \$6,507.00. In the event the amount of work is increased or decreased by OWNER, the Contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

ARTICLE 3. PROGRESS PAYMENTS

The OWNER shall make payments on account of the Contract as provided herein, as follows:

The project is being funded in part by the Federal Emergency Management Agency (FEMA). The OWNER and his representatives shall make very effort to secure prompt payment of periodic invoices submitted by the CONTRACTOR. Due to the FEMA participation, the OWNER, therefore, cannot guarantee the date of reimbursement from FEMA. However, it is anticipated that a thirty (30) to forty-five (45) day turn around will prevail.

Due to the participation of FEMA, the CONTRACTOR must comply with the appropriate Federal Regulations.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed, and accepted and the Contract is fully performed.

Upon filing of a Completion Affidavit by the CONTRACTOR that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Water Engineering Department to promptly make such inspection. When the Engineering Department finds the work acceptable under the Contract, and the Contract is fully performed, it shall so inform the Board of Public Works, which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted. Thereupon the entire balance of the Contract sum shall be due and payable to the CONTRACTOR; provided only that CONTRACTOR shall first furnish OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

#### ARTICLE 5. WORKMEN'S COMPENSATION ACT

The CONTRACTOR will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Section 14 of the Compensation Act (I. C. 22-3-2-1).

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of CONTRACTOR, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said CONTRACTOR, shall be conclusive against CONTRACTOR as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that CONTRACTOR indemnify and hold harmless CITY in the premises.

#### ARTICLE 6. NONDISCRIMINATION OF LABOR

The CONTRACTOR further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. The successful bidder, at the time the Completion Affidavit is filed, shall also file a Manpower Utilization Report for this project.

#### ARTICLE 7. PREVAILING WAGE SCALE

The CONTRACTOR agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this Contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Chapter 319 of the Acts of the General Assembly of the State of Indiana, of 1935.

#### ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the Contract as if hereto attached or herein repeated.

- a. Advertisement for Bids, for Contract No. 82-03.
- b. Instructions to Bidders for Contract No. 82-03.
- c. Contractor's Proposal dated September 22, 1982.
- d. Fort Wayne Water Utility Engineering Department Drawing No. Y-10564,  
pages 1 thru 4.
- e. Supplemental Specifications for Contract No. 82-03.
- f. Applicable provisions of the Detailed Specifications and Conditions for the Installation of Transmission and Distribution Mains of the Fort Wayne Water Utility.
- g. Applicable provisions of the Construction Standards and Water Main and Water Service Materials Standards of the Fort Wayne Water Utility, Engineering Department, latest revision, except as modified in the Supplemental Specifications, where applicable.
- h. Workman's Compensation Act (I. C. 22-3-2-1).
- i. Non Discrimination of Labor, General Ordinance No. G-34-78 (as amended).
- j. Prevailing Wage Scale.
- k. Performance and Guaranty Bond.
- l. Minority/Female Employment Requirements Option.

#### ARTICLE 9. GUARANTEE OF WORKMANSHIP

At the time of execution of this Contract, the CONTRACTOR shall furnish a Performance and Guaranty Bond in favor the City of Fort Wayne in the amount of the total value of the materials supplied and/or work performed under the terms of this Contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the City.

#### ARTICLE 10. INDEMNITY

CONTRACTOR shall furnish to OWNER, within ten (10) days of the date hereof, a certificate from an insuror acceptable to OWNER showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to OWNER.

#### ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no charges in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

#### ARTICLE 12. COMPLETION DATE

The CONTRACTOR agrees to complete the work specified in the within contract in 120 consecutive calendar days after having been ordered by the OWNER to commence work under this Contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the OWNER by the Mayor and the Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

T - G EXCAVATING, INC.

By: Thomas M. Stockamp  
THOMAS M. STOCKAMP, PRESIDENT

By: George B. Merrill  
GEORGE B. MERRILL, SECRETARY

CITY OF FORT WAYNE, INDIANA

By: Win Moses, Jr.  
WIN MOSES, JR., MAYOR

BOARD OF PUBLIC WORKS

Stephen A. Bailey  
STEPHEN A. BAILEY, CHAIRMAN

Roberta Anderson Staten  
ROBERTA ANDERSON STATEN, MEMBER

ATTEST:

Sandra E. Kennedy  
SANDRA E. KENNEDY, CLERK

Betty R. Collins  
BETTY R. COLLINS, MEMBER

APPROVED AS TO FORM AND LEGALITY:

R. J. [Signature]  
ASSOCIATE CITY ATTORNEY

Approved by the Common Council of the City of Fort Wayne on \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_.

Special Ordinance No. \_\_\_\_\_.



# Fidelity and Deposit Company

HOME OFFICE

OF MARYLAND

BALTIMORE, MD. 21203

## Performance Bond

KNOW ALL MEN BY THESE PRESENTS:

That T & G Excavating, Inc., 5544 Huguenard Road,

(Here insert the name and address or legal title of the Contractor)

Fort Wayne, Indiana 46808

as Principal, hereinafter called Contractor, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, with its home office in the City of Baltimore, Maryland, U. S. A., as Surety, hereinafter called Surety, are held and firmly bound unto Board of Works, City of Fort Wayne,

City County Building, 1 Main Street, Fort Wayne, Indiana 46802

(Here insert the name and address or legal title of the Owner)

as Oblige, hereinafter called Owner,

in the amount of Six Thousand Five Hundred and Seven Dollars and no cents

Dollars (\$6,507.00.....), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated 1982

entered into a contract with Owner for Contract No 82-03 Cedarville Dam Bank  
Stabilization DSR 041888, Fort Wayne, Indiana

in accordance with drawings and specifications prepared by City of Fort Wayne, Indiana

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

(1) Complete the Contract in accordance with its terms and conditions, or

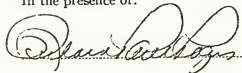
(2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this..... day of..... A.D. 1982.....

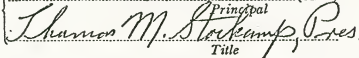
In the presence of:



Lois Harter

T &amp; G Excavating, Inc.

(SEAL)

 Thomas M. Stockamp, Pres.  
 Title

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By  (SEAL)

Virginia T. Axson (attorney-in-fact)



# Fidelity and Deposit Company

HOME OFFICE

OF MARYLAND

BALTIMORE, MD. 21203

## Labor and Material Payment Bond

Note: This bond is issued simultaneously with Performance Bond in favor of the owner conditioned on the full and faithful performance of the contract.

KNOW ALL MEN BY THESE PRESENTS:

That T & G Excavating, Inc., 5544 Huguenard Road,  
(Here insert the name and address or legal title of the Contractor)  
Fort Wayne, Indiana 46809  
 as Principal, hereinafter called Principal, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, with its home office in the City of Baltimore, Maryland, U. S. A., as Surety, hereinafter called Surety, are held and firmly bound unto Board of Works, City of Fort Wayne,  
City County Building, 1 Main Street, Fort Wayne, Indiana 46802  
(Here insert the name and address or legal title of the Owner)

as Oblige, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of Six Thousand Five Hundred and Seven Dollars and no cents

(Here insert a sum equal to at least one-half of the contract price)

Dollars (\$ 6,507.00 ) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated 19 82,  
 entered into a contract with Owner for Contract No. 82-03 Cedarville Dam Bank  
Stabilization DSR 041889, Fort Wayne, Indiana

in accordance with drawings and specifications prepared by City of Fort Wayne, Indiana

(Here insert full name, title and address)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a sub-contractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

(a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

(b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this        day of        A.D. 19 82

In the presence of:

Caryle E. Spelman

Lois Harter

Lois Harter

T & G Excavating, Inc. (SEAL)

Thomas M. St. Kamp, Pres.  
 Title

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By Virginia T. Axson (SEAL)

Virginia T. Axson (attorney-in-fact)

TITLE OF ORDINANCE Water Contract 82-03, Cedarville Reservoir

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE This scope of work involves placement of compacted backfill and

rip-rap on St. Joe River below the Cedarville Dam. Repairs defined as Federal

Emergency Management Agency Damage Survey Reports:

#041888 - Left Bank Cedarville Reservoir

*S-82-12-18*

#044892 - Left & Right Bank Cedarville Reservoir.

Contract awarded to T-G Excavating, Inc.

Prior approval received on Oct. 26, 1982.

EFFECT OF PASSAGE Repair flood damage

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$6,507.00

ASSIGNED TO COMMITTEE